

AMENDED IN SENATE APRIL 19, 2001

SENATE BILL

No. 1178

Introduced by Senator Burton

February 26, 2001

An act to amend Section 9880.1 of, and to add Sections 9882.6, 9882.7, 9882.8, 9882.9, 9882.10, and 9882.11 to, the Business and Professions Code, relating to automotive repair.

LEGISLATIVE COUNSEL'S DIGEST

SB 1178, as amended, Burton. Automotive repair.

Existing law, the Automotive Repair Act, provides for regulation by the Bureau of Automotive Repair in the Department of Consumer Affairs of the registration and licensing of automotive repair dealers.

This bill would establish the Quality Automotive Parts Council in the bureau. ~~The bill would require the council to make recommendations on whether any after-market crash part certified by an approved entity is of like kind, quality, safety, fit, and performance, as an original manufacturer part. In making recommendations, the council would be required to consider specified factors.~~

~~This bill would require the bureau to determine if an after-market crash part is of like kind, quality, safety, fit, and performance to an original manufacturer part.~~ *The bill would require the council to report to the bureau as to whether a certifying entity meets the requirements of an independent third party certifier, as defined. The bill would authorize the chief of the bureau to determine that any crash part certified by an independent third party certifier is recognized by the bureau as of like kind, fit, finish, performance, and quality as an original equipment manufacturer part.* The bureau would be required to adopt regulations on the certification process.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 9880.1 of the Business and Professions
2 Code is amended to read:
3 9880.1. The following terms as used in this chapter have the
4 meaning expressed in this section.
5 (a) “Automotive repair dealer” means a person who, for
6 compensation, engages in the business of repairing or diagnosing
7 malfunctions of motor vehicles.
8 (b) “Chief” means the Chief of the Bureau of Automotive
9 Repair.
10 (c) “Bureau” means the Bureau of Automotive Repair.
11 (d) “Council” means the Quality Automotive Parts Council.
12 (e) *“Certified crash part” means a replacement for any of the*
13 *nonmechanical sheet metal or plastic parts that generally*
14 *constitute the exterior of a motor vehicle, including inner and*
15 *outer panels for which a certification has been issued by an*
16 *independent third party certifier as defined in subdivision (f). All*
17 *crash parts certified shall carry warranties by the manufacturer or*
18 *distributor that are at least equal to warranties for replacement*
19 *parts that are available from original equipment manufacturers.*
20 (f) *“Independent third party certifier” means a certifying entity*
21 *that meets the following criteria:*
22 (1) *It is not owned, operated, maintained, or affiliated with any*
23 *car company or noncar company manufacturer of crash parts.*
24 (2) *It conforms to all generally accepted guidelines for*
25 *independent, third-party certification and standard setting*
26 *programs.*
27 (3) *It has adopted written standards containing conditions to*
28 *be fulfilled by a manufacturer of crash parts.*
29 (4) *It tests or contracts with an independent testing*
30 *organization that tests crash parts using suitable equipment and*
31 *techniques.*
32 (5) *It administers its certification program in a*
33 *nondiscriminatory manner regarding any manufacturer or*
34 *supplier or crash parts.*

1 (6) *It provides a system to determine that certified parts are of*
2 *like kind, fit, finish, performance, and quality as original*
3 *equipment manufacturer parts. If a part fails to meet any of the*
4 *above criteria, the independent third party certifier must promptly*
5 *withdraw its certification from that part and promptly advise crash*
6 *part users that certification for this part has been withdrawn.*

7 (7) *It provides mechanisms for quickly receiving inquiries and*
8 *promptly resolving disputes that arise under the program in regard*
9 *to consumers, insurers, or repair shops.*

10 (8) *It provides a method of identifying each certified crash part*
11 *and provides a system of security that guards against misuse of the*
12 *identification.*

13 (9) *It provides updated lists of certified crash parts on at least*
14 *a monthly basis.*

15 (10) *It provides the bureau and the public with an annual report*
16 *stating any developments, problems, or changes relating to*
17 *certification procedures or requirements.*

18 (g) “Motor vehicle” means a passenger vehicle required to be
19 registered with the Department of Motor Vehicles and all
20 motorcycles whether or not required to be registered by the
21 Department of Motor Vehicles.

22 ~~(f)~~

23 (h) “Repair of motor vehicles” means all maintenance of and
24 repairs to motor vehicles performed by an automotive repair dealer
25 including automotive body repair work, but excluding those
26 repairs made pursuant to a commercial business agreement and
27 also excluding repairing tires, changing tires, lubricating vehicles,
28 installing light bulbs, batteries, windshield wiper blades and other
29 minor accessories, cleaning, adjusting, and replacing spark plugs,
30 replacing fan belts, oil, and air filters, and other minor services,
31 which the director, by regulation, determines are customarily
32 performed by gasoline service stations.

33 No service shall be designated as minor, for purposes of this
34 section, if the director finds that performance of the service
35 requires mechanical expertise, has given rise to a high incidence
36 of fraud or deceptive practices, or involves a part of the vehicle
37 essential to its safe operation.

38 ~~(g)~~

39 (i) “Person” includes firm, partnership, association, limited
40 liability company, or corporation.

~~(h) An “automotive technician” is an employee of an automotive repair dealer or is that dealer, if the employer or dealer repairs motor vehicles and who for salary or wage performs maintenance, diagnostics, repair, removal, or installation of any integral component parts of an engine, driveline, chassis or body of any vehicle, but excluding repairing tires, changing tires, lubricating vehicles, installing light bulbs, batteries, windshield wiper blades, and other minor accessories; cleaning, replacing fan belts, oil and air filters; and other minor services which the director, by regulation, determines are customarily performed by a gasoline service station.~~

~~(i)~~

(j) “Director” means the Director of Consumer Affairs.

~~(j)~~

(k) “Commercial business agreement” means an agreement, whether in writing or oral, entered into between a business or commercial enterprise and an automobile repair dealer, prior to the repair which is requested being made, which agreement contemplates a continuing business arrangement under which the automobile repair dealer is to repair any vehicle covered by the agreement, but does not mean any warranty or extended service agreement normally given by an automobile repair facility to its customers.

SEC. 2. Section 9882.6 is added to the Business and Professions Code, to read:

9882.6. A Quality Automotive Parts Council is established within the bureau. The council shall advise the chief of the bureau with respect to the procedures, administration, and validity of any entity in the state that purports to certify after-market crash parts as like kind, quality, safety, fit, and performance, as original manufacturer parts.

SEC. 3. Section 9882.7 is added to the Business and Professions Code, to read:

9882.7. Except as otherwise provided in this ~~Article~~ *article*, the administration of the council shall be governed by the procedures set forth in Division 1 (commencing with Section 100).

SEC. 4. Section 9882.8 is added to the Business and Professions Code, to read:

9882.8. The council is composed of the chief of the bureau who shall act as chairperson, and one appointee by the Governor,

1 the Insurance Commissioner, the President Pro Tempore of the
2 Senate, and the Speaker of the Assembly.

3 SEC. 5. Section 9882.9 is added to the Business and
4 Professions Code, to read:

5 9882.9. After considering the ~~recommendation report~~ of the
6 council, the chief of the bureau may determine that any
7 ~~after-market crash part certified by an approved entity is~~
8 ~~presumptively of like kind, quality, safety, fit, and performance,~~
9 ~~as an original manufacturer part.~~ *part certified by an independent*
10 *third party certifier is recognized by the bureau of like kind, fit,*
11 *finish, performance, and quality as original equipment*
12 *manufacturer parts.*

13 SEC. 6. Section 9882.10 is added to the Business and
14 Professions Code, to read:

15 ~~9882.10. The council, in making its recommendations, shall~~
16 ~~consider, among other things, the integrity of the certifying~~
17 ~~process, the credentials of any testing laboratory, the~~
18 ~~administrative credibility of the process, the statistical validity of~~
19 ~~any sampling process, the effectiveness of any decertification~~
20 ~~program, the effectiveness of any recall program, the source and~~
21 ~~effect of funding of the certifier, the importance of any contractual~~
22 ~~or other relationship between the certifier and any constituent~~
23 ~~agency or entity, the technical integrity of the certifying process,~~
24 ~~and any other matter the council deems important.~~

25 9882.10. *The council, in making its report to the bureau, shall*
26 *evaluate whether a certifying entity meets the requirements of an*
27 *independent third party certifier pursuant to subdivision (f) of*
28 *Section 9880.1. In making this determination, the council may*
29 *consider the views of the parts manufacturing, parts distributing,*
30 *automobile repair dealer, insurance, and consumer communities.*

31 SEC. 7. Section 9882.11 is added to the Business and
32 Professions Code, to read:

33 9882.11. ~~An~~ *A certifying entity submitting its certification*
34 *process to the council shall reimburse the council for reasonable*
35 *per diem compensation and travel expenses for council members*
36 *and for administrative expenses related to the certification*
37 *process. The bureau shall adopt regulations necessary to*
38 *implement this process.*

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